

## **9 FAM 40.61**

### **Aliens present without admission or parole.**

*(TL:VISA-177; 04-30-1998)*

*INA 212(a)(6)(A)(i) does not apply at the time of visa issuance.*

*[Amended by 62 FR 67564, Dec. 29, 1997.]*

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### **9 FAM 40.61 Related Statutory Provisions**

#### **INA 212(a)(6)**

*(TL:VISA-159; 12-20-96)*

(A) Aliens present without admission or parole.—

(i) In general.—An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

(ii) Exception for certain battered women and children.—Clause (i) shall not apply to an alien who demonstrates that—

(I) the alien qualifies for immigrant status under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1),

(II) (a) the alien has been battered or subjected to extreme cruelty by a spouse or parent, or by a member of the spouses or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (b) the alien's child has been battered or subjected to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty) or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, and

(III) there was a substantial connection between the battery or cruelty described in subclause (I) or (II) and the alien's unlawful entry into the United States.

*[Added by sec. 301(b) of Pub. L. 104-208, Sept. 30, 1996.]*

**Sec. 301(c)(2) of Pub. L. 104-208**

*(TL:VISA-159; 12-20-96)*

(2) Transition for battered spouse or child provision.—The requirements of subclauses (II) and (III) of section 212(a)(6)(A)(ii) of the Immigration and Nationality Act, as inserted by paragraph (1), shall not apply to an alien who demonstrates that the alien first arrived in the United States before the title III-A effective date (described in section 309(a)) [April 1, 1997.]